IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL WRIT PETITION NO. 5693 OF 2006

DATE OF DECISION: OCTOBER 31, 2006

Parties Name

Jagjit Singh and others

..PETITIONERS

VERSUS

State of Punjab and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BLE MR. JUSTICE PRITAM PAL

PRESENT: Mr. Sarwan Singh, Sr. Advocate, with Mr. N.S. Rapri, Advocate, for the petitioners.

Mr. P.S.Chhina, Addl. A.G., Punjab;

Ms. Jyoti Sareen,
Advocate, for respondents No. 3, 5 and 6.

JASBIR SINGH, J. (oral)

Order.

This petition has been filed with a prayer that a writ of certiorari be issued to quash the proceedings/ resolution of the Meetings, as mentioned in the news item dated April 2, 2006.

Petitioners are elected members of the Managing Committee of the Primary Co-operative Agricultural Development Bank Ltd., Nawanshahr (in short the Bank). The competent officer issued a notice on March 29, 2006 (Annexure R4/3) intimating members of the Managing Committee of the Bank that a meeting shall be held on April 1, 2006, at 11 AM to discuss the following agenda:-

"1.Consideration for co-opting a representative of weaker section according to bye-laws of the Bank and the Act.

2. In pursuance of letter of SADB No. 1720 dated 06.003.2006, for sending the representative of the Bank for participating in the election of Punjab State Co-operative Agricultural Development Bank."

By making reference to Rule 80 of the Punjab Co-operative Societies Rules, 1963, it is primary contention of counsel for the petitioner that the officer concerned was not justified in calling the meeting, by giving only three days' notice. It has further been argued that petitioner No. 1 was not served and petitioners No. 2 and 3 were served a few hours before the meeting on April 1, 2006, as such service of notice upon them was not proper. It has also been argued that respondent No. 7, who was co-opted as a representative of weaker section of the society, is in fact a very affluent person and is not qualified to be co-opted as such. Counsel prays that in view of arguments raised, proceedings of the meeting conducted on April 1, 2006, be quashed.

In reply thereto, it has been stated by counsel for the respondents that the writ petition is not competent as under Rule 80(i)(a) of the Punjab Co-operative Societies Rules, 1963, alternative remedy is available to the petitioner. It has further been said that as the disputed questions have been raised, it is not open to this Court to give any finding in that regard, while exercising the powers under Article 226 of the Constitution of India. It has also been stated that when the writ petition was filed, election to the Board of Directors of Punjab State Co-Operative Agricultural Development Bank had already been concluded on April 17, 2006, and that can be challenged only by filing an election petition.

After hearing counsel for the parties, we are of the opinion that the present writ petition deserves to be dismissed. It is apparent from the

records that election of the petitioners and others members of the Managing Committee of the Bank was conducted on March 17, 2006. Thereafter, election petition was filed against petitioner No. 1 and vide order Annexure P-4, he was restrained from participating in meeting of the Board of Directors to be held on April 1, 2006. Order was passed on March 31, 2006. That order is still in existence. Obviously, it means that petitioner No. 1 was not competent to participate in the meeting on the date fixed. So far as petitioners No. 2 and 3 are concerned, it is not disputed that they were served a few hours before the time of the meeting. However, they chose not to participate in the same. Be that as it may, contention of counsel for the petitioners that at least seven days' notice was necessary to convene a meeting is not justified in view of proviso to Rule 80(i) of the Punjab Co-operative Societies Rules,1963, which reads thus:

> "80. xxx xxx xxx
>
> (i)At least fifteen days' clear notice, specifying the date, place, time and agenda for a meeting of a general body/ committee and at least seven days' clear notice for a meeting of any smaller body set up by either of them, whether convened by the Registrar, the President or otherwise, shall be given to all the members of the general body/ committee or smaller body, as the case may be;
>
> Provided that a shorter notice may be given to all the members of the general body/ committee or smaller body, as the case may be, with the permission of the Registrar or under his direction:"

It is an admitted fact that vide order Annexure R4/2, necessary permission to convene meeting after giving a short notice was granted by

the competent officer. It is also on record, as per report made by the Process Server, petitioner No. 1 refused to accept notice whereas petitioners No. 2 and 3 did not participate in the meeting despite service. Contention of counsel for the petitioner that false report regarding service was procured, being disputed by the counsel opposite, cannot be gone into under Article 226/227 of the Constitution of India. Furthermore, whether respondent No. 7 belongs to weakers' section or not is also a disputed fact, which cannot be gone into while exercising jurisdiction in this writ petition. If the petitioners are aggrieved, they may lay challenge to the same as per law. Writ petition stands disposed of accordingly.

(Jasbir Singh)
Judge

(Pritam Pal)
Judge

October 31, 2006.
DKC